IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1840 OF 2006
IN
WRIT PETITION NO.3863 OF 2006

Narinder Singh Chowdhary & Anr. .. Applicants.
Vs.
Giridhari Thakurdas
Bhojraj & Ors. .. Respondents.

Mr.Pungalia for the applicants.
Mr.Y.R.Naik for respondent nos.1.
Mr.Bhatkar for respondent nos.3 and 4.

CORAM : D.B.BHOSALE, J.
DATED : 25TH AUGUST, 2006

P.C.:

. Heard learned counsel for the applicant, respondent no.1 and respondent nos.3 and 4.

2. In this application, the applicant-society has made the following prayers:

> "(a) Grant stay of execution of the Judgment and Decree passed on 26.2.2004 by the Maharashtra Co-operative Appellate Court (Mumbai) Bench Pune in Appeal No.9 of 2003 and also that the said Darkhast No.9 of 2006 in Dispute No.51 of 2001 and in Appeal No.9 of 2003 pending in the Court of Honourable Civil Judge Senior Division, Pune be stayed during pendency and final disposal of the above petition.
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> (b) Restraining the Respondent No.1 or his agents or representatives by an order of injunction from initiating any other execution proceedings in respect of the Judgment and Decree in Appeal No.9 of 2003 passed by the Maharashtra Co-operative Appellate Court

(Mumbai) Bench Pune".

3. The main writ petition was admitted on 25.4.2005 and at that stage no interim relief was granted and as a result of which the execution proceedings were initiated by respondent no.1. Mr.Naik, learned counsel for respondent no.1 states that respondent no.1 is prepared to file an undertaking in this Court within two weeks stating that even if he gets possession of the plot in pursuance of the judgment and decree passed on 26.2.2004 by the Maharashtra Co-operative Appellate Court in appeal No.9/2003, respondent no.1 shall not create third party rights in the said plot and shall not make any construction thereon pending this writ petition without permission of this Court and that he shall restore the possession of the said plot to the applicant-society, in the event of adverse order, if any, is passed in the petition to that effect. In view of the statement made by Mr.Naik, I do not deem it necessary to grant any relief in the instant application. Mr.Naik's statement is accepted. Respondent No.1 to file an undertaking, as aforestated, within two weeks from today, failing which the prayers (a) and (b) in this application shall stand allowed. It is always open for the applicant and respondent no.2 to 6 to participate in

the execution proceedings if they have any say in the execution of the decree. The executing court may pass appropriate orders after hearing all the concerned parties.

4. Respondent No.1 shall restore possession of the plot to the society if there are such directions by this Court while disposing of the writ petition within four weeks therefrom. Civil application is disposed of.

(D.B.Bhosale, J.)